

claim when the claim is read in light of the specification. Further, as indicated in *Moore U.S.A., Inc. v. The Standard Register Company*, ___ F.3d ___, ___ USPQ2d ___, 2000 U.S. App. LEXIS 23715 (Appeal Nos. 98-1386,-1387) (Fed. Cir. 2000):

We note that there is nothing wrong with defining the dimensions of a device in terms of the environment in which it is to be used. See Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1575-76, 1 USPQ2d 1081, 1087-88 (Fed. Cir. 1986) (holding that the limitation that the claimed wheelchair have a "front leg portion . . . so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats thereof" was not indefinite).

In the present case, the claim sets forth a spindle and a spindle support structure, and one of ordinary skill in the art would readily ascertain that the language is clear relative to whether the spindle, upon movement to an altered location as set out in the claims, is at a new position more easily accessible relative to an operator loading a roll on that spindle (e.g., for a given machine whether the spindle is at a less accessible or more accessible location can be readily ascertained based on whether the altered location from its feed out position provides for a more rapid loading for a given support structure). If a device does not have any spindle load adjustment capability in the manner set forth in the claims it would not have a more easily/ less accessible differential (which is the situation for the foam-in-bag prior art devices as explained in greater detail below in the prior art rejection traversals).

In the Office Action independent claims 1 and 8 were rejected as being considered by the Examiner to be anticipated by the toilet paper roll support set out in the Morales reference, while independent claim 7 was rejected as being considered anticipated by the toilet roll support device

of Ancona et al. The dependent claims 2-5, 8-9, 46, 51 and 52 were further rejected under Morales under 35 USC 102(b). Each of these prior art rejections is respectfully traversed.

The present claims 1, 7 and 8 recite in their preamble a film supply apparatus for a foam-in-bag dispenser system. In addition, the body of the 1, 7 and 8 claims make reference to, for example, “a dispenser mode position” for a spindle of the film supply apparatus. Accordingly, in accordance with MPEP 2111.03 the “foam-in-bag” claim feature should have been given weight in the claim review, which was not the case in the prior art rejection as seen from the reliance on one of the toilet paper roll support references in each rejection.

Nor would it have been obvious to alter the prior art foam-in-bag systems’ film supply apparatus to rely on references such as the toilet roll paper support references as a teaching for modifying the film supply apparatus for use in those foam-in-bag systems. As described in the “Background” portion of the present application, there is a great concern for ensuring proper tracking of the film material being fed to a foam dispenser in a foam-in-bag dispenser system. Accordingly those systems include opposite end bearing arrangements that are arranged parallel to the film draw and guide rollers and designed to assume that same position at all times (during operation and during reloading etc). In addition to being considered a factor promoting good film feed consistency between rolls, the prior art arrangements also take into consideration the typical large weight associated with the prior art film feed structures associated with foam-in-bag dispensing systems by providing a fixed, dual bearing support arrangement. The large weight rolls associated with the prior art foam-in-bag dispensing systems is attributable to the fact that it is undesirable from a manufacturing efficiency standpoint for an operator to have to shut down a bag production process numerous times to provide for film re-supply, and thus a good supply is generally provided in each roll. In view of this one of ordinary skill in the art would not have

looked to the noted toilet paper roll dispensers where guidance and weight factors are not at issue, and the prior art foam-in-bag film supply apparatus are designed to accommodate those factors without an adjustment feature from a less accessible to a more accessible location.

In the Office Action there was also made an objection to the declaration for lacking inventor Lynn Noble's residence and address. A supplemental declaration has been forwarded for signature and will be forwarded to the USPTO promptly upon return.


In view of the above remarks, Applicants submit that the rejections are overcome. Hence, reconsideration and withdrawal of the rejection are respectfully requested.

Also, Applicants respectfully submit that this Amendment and the above remarks obviate the outstanding rejections in this case, thereby placing the application in condition for immediate allowance. Allowance of this application is earnestly solicited.

If any fees are due in connection with the filing of this Amendment, such as fees under 37 C.F.R. §§1.16 or 1.17, please charge the fees to Deposit Account 02-4300; Order No. 034017.009.

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

By:



Dennis C. Rodgers, Reg. 32,936
1850 M Street, N.W., Suite 800
Washington, DC 20036
Telephone: 202/263-4300
Facsimile: 202/263-4329

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